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# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: D-190939

DATE: January 18, 1978

MATTER OF: Commercial Diving Center

## DIGEST:

Protest filed with agency and GAO more than 10 days after basis for protest is known is untimely under GAO Bid Protest Procedures and not for consideration. While protester may have been unaware of protest procedures, procedures are published in Federal Register and protester is charged with constructive notice thereof.

Commercial Diving Center (CDC) protests the rejection of its proposal under request for proposals (RFP) CG-72074-A, issued by the United States Coast Guard, for the conduct of a study of hypothermia.

CDC was advised by the contracting officer in early August 1977 that its proposal was technically unacceptable. CDC states that it did not learn of any "appeal" procedure until some time in September and that by letter of September 22, 1977, it filed a protest with the contracting officer. CDC's protest here was filed on December 20, 1977.

Our Bid Protest Procedures require that protests be filed, either with the contracting agency or with this Office, not later than 10 working days after the basis for protest is known. 4 C.F.R. § 20.2(a), (b)(2) and (3) (1977). It is clear that CDC did not comply with this requirement. Therefore, the protest is untimely and not for consideration.

While CDC may have been unaware of the "appeal" remedies, this lack of knowledge is not sufficient justification for our considering an otherwise untimely protest. Procedures for protesting the award of contracts are set forth in the Federal Procurement Regulations (FPR), 41 C.F.R. § 1-2.407-8 and in our Bid Protest Procedures, 4 C.F.R. Part 20. Both the FPR provisions and our Bid Protest Procedures were published in the Federal Register, see 35 Fed. Reg. 1236 (1970) and 40 Fed. Reg. 17979 (1975), and therefore under the law we must regard CDC as

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being on constructive notice of their contents. DeWitt Transfer and Storage Company, 53 Comp. Gen. 533 (1974), 74-1 CPD 47; Tyco, Inc.--Request for Reconsideration, B-135126, December 23, 1975, 75-2 CPD 408.

The protest is dismissed.

*Paul G. Dembling*  
Paul G. Dembling  
General Counsel